

§ 852.14 What precautions must each Physician Panel member and each specialist take in order to keep an applicant's personal and medical information confidential?

In order to maintain the confidentiality of an applicant's personal and medical information, each Physician Panel member and each specialist consulted at the request of a Physician Panel must take the following precautions:

- (a) Maintain the confidentiality of applicant records, keep them in a secure, locked location, and, upon completion of panel deliberations, follow the instructions of the Program Office with regard to the disposal or temporary retention of these records;
- (b) Conduct all case reviews and conferences in private, in such a fashion as to prevent the disclosure of personal applicant information to any individual who has not been authorized to access this information;
- (c) Release no information to a third party, unless authorized to do so in writing by the applicant; and
- (d) Adhere to the provisions of the Privacy Act of 1974 regarding Worker Advocacy Records.

§ 852.15 What actions must a Physician Panel member take if that member has a potential conflict of interest in relation to a specific application?

(a) If a panel member has a past or present relationship with an applicant, an applicant's employer, or an interested third party that may affect the panel member's ability to objectively review the application, or that may create the appearance of a conflict of interest, then that panel member must immediately:

- (1) Cease review of the application; and
 - (2) Notify the Program Office and await further instruction from the Office.
- (b) The Program Office must then take such action as is necessary to assure an objective review of the application.

§ 852.16 When may the Program Office ask a Physician Panel to reexamine an application that has undergone prior Physician Panel review?

(a) If a panel composed of a single physician issues a negative determination, the negative determination is considered an initial opinion and the Program Office must direct an additional single-physician panel to review the application and issue an independent opinion. If the second single-physician panel issues a negative determination, the Program Office considers the opinions as a negative determination by the Physician Panel for purposes of § 852.17(a) of this part.

(b) If a second single-physician panel issues a positive opinion, the Program Office must direct an additional single-physician panel to review the application and issue an independent opinion. The Program Office reviews the three opinions and considers the majority of the three opinions as the determination by the Physician Panel for purposes of § 852.17(a) of this part.

(c) The Program Office may direct the original Physician Panel or a different Physician Panel to reexamine an application that has undergone prior Physician Panel review if:

- (1) There is significant evidence contrary to the panel determination;
- (2) The Program Office obtains new information the consideration of which would be reasonably likely to result in a different determination;
- (3) The Program Office becomes aware of a real or potential conflict of interest of a member of the original panel in relation to the application under review; or
- (4) Reexamination is necessary to ensure consistency among panels.

[69 FR 13712, Mar. 24, 2004]

§ 852.17 Must the Program Office accept the determination of a Physician Panel?

(a) Subject to the ability of the Program Office to direct a reexamination pursuant to § 852.16, the Program Office must accept the determination by the Physician Panel unless the Program Office determines there is significant evidence contrary to the panel determination.